

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

FRESHUB, INC. and FRESHUB, LTD.,

Plaintiffs,

v.

AMAZON.COM, INC., a Delaware Corporation,
AMAZON.COM SERVICES LLC, a Delaware
Limited Liability Company, PRIME NOW, LLC, a
Delaware Limited Liability Company, and WHOLE
FOODS MARKET SERVICES, INC., a Texas
Corporation,

Defendants.

Case No. 6:21-CV-00511-ADA

**STIPULATION REGARDING
EXTENSION TO FILE MOTION FOR ATTORNEYS' FEES**

Amazon.com, Inc., Amazon.com Services LLC, Prime Now, LLC, and Whole Foods Market Services, Inc. (“Defendants”) and Plaintiffs Freshub, Inc. and Freshub, Ltd. (“Freshub”) stipulate as follows:

WHEREAS, the Court entered a final judgment on July 13, 2021 (Dkt. 268);

WHEREAS, the Court has not ruled in the first instance on the issues presented at the bench trial in this matter, specifically, Defendants’ defense that the asserted patents are unenforceable due to inequitable conduct;

WHEREAS, per Federal Rule of Civil Procedure 54, Defendants’ deadline to file a motion for attorney fees and expenses is currently July 29, 2021 (see Fed. R. Civ. P. 54(d)(2)(B)(ii));

WHEREAS, Defendants have agreed that they will only file a motion for attorneys’ fees in the event that they prevail on their defense that the asserted patents are unenforceable due to inequitable conduct;

WHEREAS, the parties agree that, since this basis for seeking attorneys’ fees and expenses is not yet ripe, both party and Court resources will be preserved by deferring such motion, if any, until after the inequitable conduct issue is finally determined;

BASED ON THE FOREGOING, THE PARTIES HEREBY STIPULATE as follows: Defendants’ motion for attorney fees and expenses, if any, shall be due 30 days after the final resolution of the inequitable conduct defense, inclusive of any appeals.

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Dated: July 27, 2021

Respectfully submitted,

/s/ Eric B. Young

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SERVICES LLC, PRIME NOW, LLC, and
WHOLE FOODS MARKET SERVICES,
INC

Respectfully submitted,

/s/ Lisa Kobialka

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FRESHUB, INC. AND FRESHUB, LTD.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on July 27, 2021.

/s/ Eric B. Young

Eric B. Young

[PROPOSED] ORDER

PURSUANT TO STIPULATION, Defendants' motion for attorney fees and expenses shall be due 30 days after the final resolution of the inequitable conduct defense, inclusive of any appeals.

SO ORDERED.

SIGNED this _____ day of _____, 2021.

ALAN D. ALBRIGHT
UNITED STATES DISTRICT JUDGE